

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN

OWEN W. BARNABY,

Plaintiff,

Case No. 1:22-cv-01146

v.

Hon. Robert J. Jonker
Mag. Sally J. Berens

THE CITY OF BENTON HARBOR, et al.,
Defendants.

**THE CITY OF BENTON HARBOR'S RESPONSE TO PLAINTIFF'S MOTIONS FOR
ADDITIONAL PAGES (ECF Nos. 98, 101)**

The City of Benton Harbor (“Benton Harbor”) opposes Mr. Barnaby’s requests (ECF Nos. 98, 101) for additional pages for his appeal briefs (ECF Nos. 97, 100).

In pertinent part, L. Civ. R. 7.2(b) states:

- (i) Length - **Briefs filed in support of or in opposition to a dispositive motion that are produced on a computer shall not exceed ten thousand eight hundred (10,800) words**, to include headings, footnotes, citations and quotations. Not to be included in the word count limit are the case caption, cover sheets, any table of contents, any table of authorities, the signature block, attachments, exhibits, and affidavits. Any such brief that is hand-written or produced on a typewriter shall not exceed twenty-five (25) pages in length, similarly including and excluding items previously identified.
- (ii) Certificate of compliance - **The brief must be accompanied by a certificate of compliance, indicating the number of words in the document as defined by LCivR 7.2(b)(i)**, as well as the name and version of the word processing software that was used to generate the word count. The word count provided by the word processing software used to create the brief may be relied upon for purposes of the certificate of compliance.

Emphasis added.

First, Mr. Barnaby requests that the court extend his brief page limit to 25 pages. Under L. Civ. R. 7.2(b)(i), however, a brief's length is limited by word count when typed on a computer, not number of pages, rendering Mr. Barnaby's request moot.

Second, Mr. Barnaby attests in his appeal briefs' certificates of compliance that he is using Word 2013 and not a typewriter, yet he provides a page count and not a word count, contrary to the requirements of L. Civ. R. 7.2(b)(ii). As such, Benton Harbor cannot tell if Mr. Barnaby has already exceeded the word count limitation, and objects to additional pages or words on that basis.

Finally, Mr. Barnaby requests 25 pages. Even if his appeal briefs were typed on a typewriter, 25 pages is already the maximum page count in the Local Rules. It is unclear how 25 pages would constitute "additional" pages.

Notwithstanding the foregoing, Benton Harbor opposes Mr. Barnaby's request for additional pages or for additional words because his arguments are repetitive and meritless, and additional words or pages will not cure the briefs' deficiencies.

Respectfully submitted,

/s/ Thomas J. Rheaume, Jr.

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January 16, 2024

CERTIFICATE OF RULE COMPLIANCE

This brief complies with the word limit of L. Civ. R. 7.3(b)(i) because it contains 384 words, excluding the parts exempted by L. Civ. R. 7.3(b)(i). The word count was generated using Microsoft Word 2016.

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CERTIFICATE OF SERVICE

I hereby certify that on January 16, 2024, I caused the foregoing document and this Certificate of Service to be electronically filed by using the CM/ECF electronic filing system which will send notification of such filing(s) to all parties via their counsel of record.

/s/ Thomas J. Rheaume, Jr.

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